

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CUSTOM DESIGNS OF NASHVILLE, INC.)	
and MAHAN MARK JANBAKHSH)	
)	
Plaintiffs/Counter-Defendants,)	Civil No. 3:08-0665
)	Judge Trauger
v.)	Magistrate Judge Bryant
)	
ALSA CORPORATION,)	
)	
Defendant/Counter-Plaintiff.)	

ORDER

On October 5, 2009, the Magistrate Judge issued a Report and Recommendation (Docket No. 44), to which no timely objections have been filed. The President of the defendant, Alsa Corporation, did send a letter to the court, once again insisting that the defendant cannot afford to hire counsel to defend this case. (Docket No. 45)

The court is not comfortable granting a default judgment on the present record and, therefore, **REJECTS** the Report and Recommendation recommending that action. The defendant did appear and file an Answer in this case (Docket No. 22), but defense counsel was allowed to withdraw by Order entered January 23, 2009 (Docket No. 30), apparently for failure to pay fees.

The plaintiffs have succeeded in having deemed admitted their requests for admission. (Docket No. 38) Based upon those admissions, in all likelihood, the plaintiffs will be able to file a motion for summary judgment that the court can review for its merit, pursuant to *Stough v. Mayville Cmty. Schs.*, 138

F.3d 612, 614 (6th Cir. 1998), even if the defendant continues to be unrepresented and fails to respond to the motion.

It is so **ORDERED**.

ENTER this 28th day of October 2009.

A handwritten signature in black ink, appearing to read 'Aleta A. Trauger', written over a horizontal line.

ALETA A. TRAUGER
U.S. District Judge